IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2006

CORAM

THE HON'BLE MR.JUSTICE P.JYOTHIMANI

Writ Petition No.11766 OF 2006

U.Rose .. Petitioner

vs.

1. Commissioner for Revenue
   Administration, Chepauk
   Chennai - 5

2. District Collector
   Vellore District
   Vellore .. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to include the name of the petitioner in the appropriate place in the panel of the year 2001 for promotion to the post of Deputy Tahsildar and to promote the petitioner with all consequential benefits by implementing the order in O.A.No.5639 of 2002 dated 30.10.2002 on the file of Tamil Nadu Administrative Tribunal by fixing outer time limit.

For petitioner : Mr.C.Kalaichelvan
For respondents : Mr.M.G.H.Varadarajan
Additional Government Pleader

O R D E R

This writ petition has been filed for a direction against the second respondent to include the name of the petitioner in the appropriate place in the panel of the year 2001 for promotion to the post of Deputy Tahsildar and to promote the petitioner with all consequential benefits as per the order of Tamil Nadu Administrative Tribunal in O.A.No.5639 of 2002 dated 30.10.2002.

2. It is seen that when the charge memo was framed against the petitioner, the petitioner approached the Tribunal and the Tribunal by an order dated 30.10.2002 has directed the respondents to pass final orders within a period of two months from the date of receipt of a copy of that order specifically stating that failing for passing of such order, the applicant's name shall be included in the panel

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and consider for promotion ignoring the pendency of the disciplinary proceedings. The final order has been passed by the respondents on 14.10.2004 by imposing the punishment of cutting increment of one year with cumulative effect. Even the period of punishment has been completed, the petitioner has not been included in the panel of promotion to the post of Deputy Tahsildar. In the circumstances, the petitioner has made a representation to the first respondent on 27.4.2005.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader.

4. Learned counsel for the petitioner apart from relying upon the order of the Tribunal, also relies on the order of this Court passed in W.P.No.32799 of 2005 dated 3.2.2006 in which this Court while taking into consideration the pendency of the disciplinary proceedings for a prolonged period, directed that the name of the petitioner therein should be included in the panel of promotion to the post of Assistant Executive Engineer if the petitioner therein was otherwise eligible for the same. In the present case, admittedly, when the final order was passed in the disciplinary proceedings itself on 14.10.2004 by imposing the punishment of cutting increment of one year with cumulative effect and the period of punishment itself has been over by 14.10.2005, there is absolutely no reason for the respondents to deny the right of the petitioner to be included in the panel of promotion as Deputy Tahsildar.

5. In view of the same, the first respondent is directed to consider the representation of the petitioner on 27.4.2005 in the light of the order passed by the Tamil Nadu Administrative Tribunal in O.A.No.5639 of 2002 dated 30.10.2002 and considering the circumstances that the respondents themselves have passed the final order in the disciplinary proceedings even on 14.10.2004 and the period of punishment has already come to an end, it is proper to include the petitioner name in the promotional list as Deputy Tahsildar if the petitioner is not otherwise disqualified. Such order shall be passed by the first respondent within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Commissioner for Revenue
Administration, Chepauk
Chennai - 5

2. The District Collector
Vellore District
Vellore

1 cc to Mr.C.Kalaichelvan, Advocate, Sr. 38229
1 cc to the Govt. Pleader, Sr. 38447

W.P.No.11766 OF 2006

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